

## SUBCOMMITTEE NO. 4

## Agenda

Michael J. Machado, Chair  
Tom Harman  
Christine Kehoe



**PART A**  
**Wednesday, May 21, 2008**  
**1:30 p.m.**  
**Room 112**

(Consultant - Keely Martin Bosler)

<b><u>Item</u></b>	<b><u>Department</u></b>	<b><u>Page</u></b>
0855	California Gambling Control Commission .....	2
1870	Victim Compensation and Government Claims Board .....	5
0820	Department of Justice .....	7
0855	California Gambling Control Commission .....	14
0250	Judicial Branch .....	17
	Trial Courts .....	18
	Judicial Council/Administrative Office of the Courts .....	20
	Administrative Office of the Courts: Office of Court Construction and Management .....	20
5225	California Department of Corrections and Rehabilitation .....	23
	Board of Parole Hearings .....	23
	Division of Juvenile Justice .....	23
	Other Issues .....	26

---

### **State Administration—General Government—Judiciary—Transportation**

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

## 0855 California Gambling Control Commission

### 1. Tribal Gaming Revenues—Informational Item

**Previous Subcommittee Action.** At the April 9 meeting of the Subcommittee the DOF agreed to report tribal gaming revenues separately in the budget to make them more transparent. The Subcommittee also took action to use funding in the Special Distribution Fund (SDF) to ensure enough funds were available in the Revenue Sharing Trust Fund (RSTF) to make the required payments to each non-compact tribe. This action increased General Fund revenues by \$40 million from tribal gaming.

**May Revision.** The May Revision includes a proposal to take the same action this Subcommittee took on April 9. However, the May Revision also contains an updated tribal gaming revenue estimate that is slightly lower than what was assumed in the January budget proposal. The Governor reports that the new revenue estimate is \$6.7 million lower in the current year and \$23.7 million lower in the budget year due to the delayed adoption of the Sycuan tribal compact by the Sycuan General Council. Given this development, the action the Subcommittee took on April 9 results in a net increase in General Fund revenues of \$16.3 million instead of \$40 million.

The updated revenues from the tribal-state compacts are as follows:

- General Fund - \$446.7 million.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) – Approximately \$40 million to pay \$1.1 million per year to each non-compact tribe.
- Indian Gaming Special Distribution Fund (SDF) - \$49 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - \$100 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

**New Compact Signed.** On April 28 the Governor signed two related tribal gaming compacts. These compacts have not been ratified by the Legislature. The following is a summary of the compacts:

- **North Fork Mono Rancheria.** The compact would authorize the North Fork Mono Rancheria to operate a gaming facility just north of the city of Madera and authorize the tribe to operate no more than 2,500 slot machines at the facility. This facility is estimated to generate over \$25 million annually for the General Fund. The facility will share revenues with the state based on a sliding scale percentage of net win from the operation of the slot machines and the banked card games from 13.5 percent to 22 percent. The facility will also share revenues with the Wiyot Tribe.
- **Wiyot Tribe.** The compact with the Wiyot Tribe would require the tribe to forego its right to game on its tribal lands along Humboldt Bay in exchange for revenue payments from a gaming facility to be operated by the North Fork Mono Rancheria in Madera County. The Wiyot Tribe will receive a sliding scale percentage of the net win from the North Fork Mono Rancheria gaming operation. The Wiyot Tribe is expected to get about

\$3 to \$5 million annually above the distributions they currently receive from the Revenue Sharing Trust Fund.

## 2. Gambling Control Fund

**Background.** The Gambling Control Fund is used to support gambling regulation activities at the Gambling Control Commission and the Department of Justice. Revenues to this fund are from fees and penalties collected from persons operating cardrooms. The Governor's budget estimates that this fund will have a reserve of \$14 million in the budget year.

**May Revision.** The May Revision proposes to loan \$10 million from the Gambling Control Fund to the General Fund on a one-time basis. This would leave the fund with approximately \$4 million in reserve in the budget year.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 3. Inspection Program

**Previous Subcommittee Action.** At the April 9 meeting of the Subcommittee, a proposal to continue \$1 million from the Special Distribution Fund for the Gambling Control Commission's electronic gaming device inspection program was rejected. At that time of the hearing, the Legislature had not received a legislatively mandated report on the performance of the GCC's slot machine inspection and testing program.

**Electronic Gaming Device Inspection Report.** Since the Subcommittee meeting on April 9, staff has received the report on the commission's electronic gaming device inspection program. This report found that of the 1,275 components/software that were tested over 28 percent were obsolete. This means that the manufacturer had issued a newer version of the software and is no longer supporting the old version. The commission points out that obsolete software may not always pose a risk and therefore many not need to be removed from the casino floor. However, during the analysis of the obsolete software the commission staff found that some of the software did pose a risk and the staff made recommendations to have it upgraded or removed.

The commission indicates that it cannot currently document an increase in revenues to the state due to the electronic gaming testing. However, the commission indicates that when electronic gaming devices function improperly because of the use of revoked or obsolete software the devices may not be properly accounting for gaming revenue, which would impact the state's revenue.

**Staff Comments.** Staff finds that electronic gaming devices are the most important source of revenue in the tribal gaming operations. Given the initial findings of the commission, staff finds that it would ultimately be beneficial to continue the commission's inspection presence.

The LAO finds that the report on the electronic gaming device inspection program has provided the Legislature with useful information about the performance of this inspection program. The

LAO recommends that the reporting requirement be continued so that the Legislature can continue to monitor the performance of this program. Also, the LAO finds that the information contained in the audit report from the commission is useful to the Legislature and that this report should also be continued.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Restore \$1 million from the Special Distribution Fund to continue the electronic gaming device inspection program.
- Approve the following supplemental report language recommended by the LAO for the audit program and the electronic gaming inspection program:

***1. Audit Staffing, Workload, Productivity, and Results.** No later than March 1, 2009, the California Gambling Control Commission (CGCC) shall submit to the Legislature updated workload information regarding its audit plan. The information shall include an update of the audit plan including the status of backlogged audits, the updated number of hours to complete an audit, the outcomes of audits completed, the number of audit positions that have been filled and the number of vacancies, and an updated calculation of audit staff needs based on the most recent workload information. Should the administration submit a budget change proposal (BCP) for audit-related programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.*

***2. Field Inspection and Technical Services (Gaming Device Testing) Programs.** No later than March 1, 2009, CGCC shall submit to the Legislature a report describing the activities of its field inspection and technical services programs including: (a) an updated list of ratified and proposed tribal-state compacts that authorize state testing of gaming devices; (b) relevant measures of productivity by both of the programs (including, but not limited to, the number of devices tested and at how many facilities); (c) descriptions of significant problems discovered with gaming devices as a result of these programs' activities and measures taken to resolve the problems; (d) a measure of state revenues, if any, collected as a result of the programs' activities (including identification of any such revenues that overlap with those listed in the commission's report to the Legislature on audit program results), (e) an evaluation of the programs' workload and whether currently authorized staffing levels are sufficient for the commission to fulfill its responsibilities, and (f) any recommendations to the Legislature on budgetary, statutory, or other changes necessary to allow the commission to operate these programs in a more effective and productive manner. Should the administration submit a BCP related to these programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.*

## 1870 Victim Compensation and Government Claims Board

### 1. Restitution Fund

**Previous Subcommittee Direction.** At the April 10 meeting of this Subcommittee testimony was heard regarding the Restitution Fund and various programs supported by this fund, including the Witness Protection Program administered by the Department of Justice (DOJ). The Subcommittee held open recommended trailer bill language and budget changes to transfer the administration of the Witness Protection Program from DOJ to the Victim Compensation and Government Claims Board (VCGCB) and require that the board structure the program to maximize federal matching funds.

The Subcommittee also heard testimony about the impending structural imbalance of the Restitution Fund despite a projected reserve in the budget year of \$124 million (as estimated by the LAO). In response the Subcommittee took action to reduce support for the Witness Protection Program by \$3 million to bring it to its 06-07 funding level and increased federal fund support for the program by \$1.8 million to enable federal Victims of Crime Act (VOCA) matching funds. The Subcommittee also approved trailer bill language to increase the local matching requirement from 25 percent to 75 percent to help address structural deficit in the Restitution Fund.

In addition, the Subcommittee requested staff, LAO, DOF, and the Board do the following:

- Develop options for transferring a portion of the reserves in the Restitution Fund to the General Fund on a one-time basis.
- Develop an audit request to explore options for enhancing revenue collections to the Restitution Fund.
- Develop ways to optimize state-local relationships related to victim services through the use of compacts.

**May Revision.** The May Revision proposes a one-time \$50 million transfer to the General Fund from the Restitution Fund. The May Revision also proposes a one-time loan of \$30 million to the Emergency Response Account.

**Impact of Transfer and Loan.** Staff finds that the transfer and the loan would leave the Restitution Fund with approximately \$44 million in reserve funds in the budget year. However, staff also notes that this fund is currently expending more funds than it takes in each year so this reserve would be quickly eliminated without other actions to reduce ongoing expenditures from this fund. The Subcommittee has already taken one action reduce the ongoing funding supporting the Witness Protection Program.

The LAO recommended in February that the Legislature had the option of transferring \$45 million to the General Fund from the Restitution Fund as a one-time solution. The LAO now recommends approving the Governor's transfer of the \$50 million. The LAO also recommends rejecting the Governor's May Revision proposal to loan \$30 million to finance fire protection

and instead proposes to transfer this money to the General Fund as well. The LAO has an alternative proposal to fund fire protection.

**State-Local Compacts.** The department has indicated that it may be able to expand its staff at its existing Restitution Centers to develop Joint Powers Authorities with counties that do not currently have Restitution Centers. This would expand the board's presence in counties that currently do not have established Restitution Centers.

**Initiative Would Impact Victim Board Programs.** At the May 5 meeting of the Subcommittee, testimony was heard about an initiative (Marsy's Law) that would significantly change the way victims are compensated. It would take actions to make collection of restitution the first priority by the courts. However, while this initiative may increase the collection of restitution it would likely reduce revenues to the Restitution Fund because under the initiative victims would be compensated directly at the local level. This would considerably change the nature of the board's programs.

**Audit.** The Bureau of State Audits is currently conducting an audit of the board's Victim's Compensation Program. However, the LAO finds that this audit will not include an analysis of options to enhance revenue collections to the Restitution Fund. Staff finds that an audit could improve the overall collection of restitution. However, given the changes included in the pending initiative (Marsy's Law) staff finds that an audit may be premature.

**Transfer of Witness Protection Program.** After further review the LAO finds that the estimated savings and federal match that could be accomplished by transferring the Witness Protection Program from DOJ to the VCGCB would be minimal. The LAO indicates that more information is needed from the board about the requirements for federal matching funds and whether or not DOJ could access the federal VOCA money if expenditures qualified. Staff finds that given the structural problems in the Restitution Fund the Subcommittee's earlier action to reduce funding for the Witness Protection Program should be sustained.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Transfer \$50 million from the Restitution Fund to the General Fund on a one-time basis. This shall be considered repayment to the General Fund of a loan that was taken from the fund in 1993-94.
- Transfer an additional \$30 million from the Restitution Fund to the General Fund on a one-time basis.
- Adopt supplemental report language that requires the department to develop options for developing more Joint Powers Authority for covering counties that do not have Restitution Centers and developing relationships with District Attorneys and the DOJ to ensure the state maximizes the VOCA federal funds it can draw down with its expenditures.

## 0820 Department of Justice

### 1. Unallocated Reduction—Technical Adjustment

**Previous Subcommittee Actions.** The Governor is proposing a 10 percent unallocated General Fund reduction to DOJ's budget. This would result in a reduction of \$41.6 million General Fund across all program areas. This would reduce DOJ expenditures to a level below estimated expenditures in the current year. At the April 10 meeting of this Subcommittee actions were taken to make specific reductions to DOJ's budget to help meet this reduction target. These actions are detailed below.

Furthermore, additional actions are proposed in this agenda and should also count towards DOJ's unallocated reduction.

<b>Department of Justice (in millions)</b>	
Eliminated vacant positions	\$13.5
Reduced workload budget proposal for habeas corpus workload	1.8
Eliminated Gang Suppression Enforcement Taskforces	5.3
Eliminated funding for gang curriculum	0.1
<b>Subtotal</b>	<b>\$20.7</b>

**May Revision.** A Finance Letter (dated May 13, 2008) proposes a technical adjustment that is part of a Central Services Agencies May Revision proposal that would reduce DOJ's unallocated reduction by \$346,000 General Fund. The Central Services Agencies proposal would also realign funding of some central services and would switch \$3.5 million General Fund with a new Centralized Services Fund.

This technical adjustment will be considered as part of the larger Central Services Agencies proposal.

**Staff Recommendation.** Staff recommends that the Subcommittee eliminate the unallocated reduction given the other actions taken by the Subcommittee on April 10 and to be taken today.

### 2. Eliminate Vacant Positions

**Previous Subcommittee Action and Direction.** At the April 10 meeting of this Subcommittee an action was approved to eliminate vacant positions and reduce DOJ's budget by \$13.5 million. The Subcommittee requested that staff, LAO, DOF, and DOJ work on developing a process and budget bill language to guide the process of identifying and eliminating positions to generate this savings.

**DOJ Response.** The DOJ has suggested a technical adjustment to the action taken by the Subcommittee on April 10. This action would reduce savings by \$1.6 million, but would still eliminate 100 positions along with corresponding operating expenditures and equipment. This action will result in \$11.9 million General Fund savings in the budget year.

**Staff Recommendation.** Staff recommends that the Subcommittee amend its previous action to update the savings recommended by DOJ.

### 3. Charging State and Local Agencies Lab Fees

**Previous Subcommittee Direction.** At the April 10 meeting of the Subcommittee, staff, LAO, DOF, and DOJ were directed to develop a plan for reducing the General Fund support for the state forensic labs, including raising fees for selected lab services. The department has broad authority for charging fees for the laboratory services it performs (Penal Code §11050.5). The department currently charges \$35 per blood alcohol analysis for certain non-driving cases.

The Governor's budget includes \$92 million to support DOJ's 11 criminalistic laboratories. The budget assumes that 70 percent of this budget will be supported by the General Fund (\$64 million). The department current charges \$35 per analysis

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Reduce General Fund support for the forensic laboratories by \$10 million and increase expenditures from the DNA Identification Fund by \$10 million to reflect additional fees for laboratory services.
- Add budget bill language that directs the department to use their existing authority to charge fees to develop a fee schedule that (1) mitigates unusually high costs for complex investigations, (2) is commensurate with the costs to provide the service, and (3) generates an additional \$10 million in fee revenue.

### 4. Correctional Law: Class Action and Civil Lawsuits

**Previous Subcommittee Direction.** At the April 10 meeting of the Subcommittee a \$2.3 million General Fund budget augmentation to support workload related to the class action and civil lawsuits that have been brought against the California Department of Corrections and Rehabilitation. The department estimates that it has approximately \$5 million in its base budget to support this workload.

The Governor's budget proposal includes \$2.3 million from the General Fund to establish 13.1 positions (4 attorneys) to defend CDCR in various class action and civil lawsuits.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this budget proposal.



## 5. Transfers and Loans to the General Fund

**Previous Subcommittee Direction.** At the April 10 meeting of the Subcommittee testimony was heard about \$75 million that is currently being held in the department's Litigation Deposit Fund as a result of the Williams Energy Settlement. There are no statutory restrictions on how the state uses the funds and the department has indicated that they could be transferred to the General Fund.

**May Revision.** A Finance Letter (dated May 13, 2008) proposes one-time loans to the General Fund from special funds administered by the Department of Justice. These loans include \$1 million from the Sexual Habitual Offender Fund and \$6 million from the False Claims Act Fund.

**Alternate Recommendations.** The LAO recommends transferring \$1 million from the Sexual Habitual Offender Fund and \$8 million from the False Claims Act Fund instead of the loans proposed by the Governor. The LAO also recommends transferring the balance of the Williams Energy settlement to the General Fund. The LAO estimates this is \$69 million and not the \$75 million reported by staff at the April 10 meeting of the Subcommittee.

Furthermore, DOJ has proposed transferring funding for the Medi-Cal fraud unit from the General Fund to the False Claims Act Fund. Staff finds that the Sexual Habitual Offender Fund has had solvency problems as recently as 2007. In addition, the revenues to the False Claims Act Fund are irregular, which makes it risky to support an ongoing program from this fund source.

The proposed loan from the Sexual Habitual Offender Fund will leave this fund with a reserve of \$912,000 at the end of the budget year. The loan from the False Claims Act Fund would leave this fund with a reserve of \$6.2 million at the end of the budget year and the LAO's proposed transfer would leave the fund with \$4.2 million.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Transfer \$69 million in William's energy settlement revenues to the General Fund.
- Transfer \$8 million from the False Claims Act Fund to the General Fund.

## 6. Hazardous Waste Litigation

**Previous Subcommittee Direction.** At the April 10 meeting of this Subcommittee, testimony was heard about the impacts of the Governor's veto of \$2.2 million that had been included in DOJ's 2007 Budget Act appropriation to support hazardous waste enforcement work. This veto had left the department with approximately \$2.2 million in the current year, which was continued in the budget year to support hazardous waste enforcement work.

**May Revision.** A Finance Letter (dated May 13, 2008) proposes an additional \$1 million in reimbursements from the Legal Services Revolving Fund to augment an interagency agreement between the department and the Department of Toxic Substances Control to continue to provide additional litigation support in hazardous waste enforcement cases.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this May Revision Finance Letter proposal.

## 7. CALMS Methamphetamine Program

**Background.** The DOJ's California Methamphetamine Strategy (CALMS) program supports local law enforcement in the investigation and prosecution of crimes related to the production of methamphetamines. This program was augmented by \$4.5 million ongoing in 2006. A report on the performance of this program that was due to the Legislature in January 2008. This report has not been received by the Legislature and is not expected to be completed until October 2008.

**Governor's Budget.** The Governor's budget includes \$14.6 million in the base budget for the CALMS program. This includes the \$4.5 million that was added to the budget in 2006. The Governor does not propose any changes to this program in the budget.

**LAO Recommendations.** The LAO finds that has not made a specific recommendation related to this program. However, the LAO notes in their analysis that a recent report by the Drug Enforcement Administration (DEA) finds that methamphetamine production in the United States is on the decline due to federal and state laws regarding the sale and purchase of precursor and essential chemicals used in the manufacture of methamphetamines. Furthermore, research by the DEA suggests that the most promising means of eliminating the smaller meth production labs is to cut off their supply of meth precursor chemicals.

**Staff Comments.** Given the state's fiscal condition and the changing trends in meth production, staff finds that this program could be reduced by \$4.5 million. This would bring the program to its 2005 funding level. Staff finds that the CALMS program has done important work in combating meth production especially in the Central Valley. Staff finds that if DOJ wants to continue to focus its efforts on meth production it can realign existing resources to continue these activities.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Reduce the CALMS program by \$4.5 million.
- Approve budget bill language to ensure that the department can continue to fund CALMS program activities through the reprioritization of its existing law enforcement resources.

## 8. Spousal Abuser Prosecution Program

**Background.** The DOJ administers the Spousal Abuser Prosecution Program that provides \$3 million for grants to district attorneys and city attorneys for the vertical prosecution of domestic violence offenses. This program is similar to the Vertical Prosecution Block Grant program administered by the Office of Emergency Services.

**Governor's Budget.** The Governor's budget includes \$3 million for grants to fund the Spousal Abuser Prosecution Program. The Governor does not propose any changes to this program.

**LAO Recommendation.** The LAO recommends consolidating the Spousal Abuser Prosecution Program with the Vertical Prosecution Grant program at OES. The LAO does not recommend reducing this program.

**Staff Comments.** The DOJ has indicated to staff that they agree this program could be consolidated with the other vertical prosecution programs at OES. This transfer of the program would require a change in statute. Given the fiscal condition of the state, staff finds that this grant program could be reduced in the budget year. Staff finds that OES already has \$16 million available for subventions to local district attorneys and city attorneys for vertical prosecution and this program could be absorbed within the existing program since both programs fund similar activities.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Eliminate funding for the Spousal Abuser Prosecution Program.
- Approve trailer bill language to transfer administration of the program to OES.

## 9. Executive Programs

**Previous Subcommittee Meeting.** At the April 10 meeting of the Subcommittee, an action was taken to consolidate the Division of Executive Programs into the Criminal Law Division. The DOJ reports that there are three programs within the Division of Executive Programs that are not administrative and that provide direct services or benefits to California citizens. These programs are:

- **Crime Violence Prevention Center** – This center initiates and promotes policies and programs that improve the quality of life for Californians through the prevention and reduction of crime and violence.
- **Office of Victim Services** – This office leads California’s fight toward preserving the rights of crime victims through responsive programs, accessibility of services, and progressive legislation.
- **Office of Native American Affairs** – This office serves as liaison and addresses justice-related issues for California’s Indian citizens who reside on reservations, rancherias, and in urban communities for the overall improvement of the quality of life for Indian people.

**Governor’s Budget.** The DOJ reports that the Crime Violence Prevention Center and the Office of Victim Services have a combined budget of \$4.7 million and 40 positions. The Office of Native American Affairs is supported by \$326,000 and two positions.

**Staff Comments.** Given the fiscal condition of the state, the DOJ has indicated that the Office of Native American Affairs and the Crime and Violence Prevention Center could be eliminated to provide General Fund savings. Staff finds that these programs are not part of DOJ’s core mission. Given the state’s fiscal condition, staff finds that the elimination of these programs would have minimal impacts on the department’s ability to implement its core mission.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Eliminate funding for the Executive Programs, thereby reducing DOJ's budget by \$5 million.

## 10. Proposition 69 – DNA Program Implementation

**DNA Program Created by Proposition 69.** In November 2004, the voters of California passed the DNA Fingerprint, Unsolved Crime, and Innocence Protection Act (Proposition 69) into law. This Act requires the collection of DNA from the following persons for inclusion in the state's DNA Databank:

- Adults and juveniles convicted of any felony offense.
- Adults and juveniles convicted of any sex offense or arson offense, or an attempt to commit any such offense (not just felonies).
- Adults arrested for or charged with felony sex offenses, murder, or voluntary manslaughter (or the attempt to commit such an offense).

Beginning in 2009, DNA will be collected from all adults arrested for or charged with any felony offense.

The initiative requires the use of buccal swab samples to produce a DNA profile. The initiative also requires DOJ to analyze and upload certain DNA samples into the CAL-DNA databank and the Combined DNA Index System (CODIS) databank maintained by the FBI within six months. If DOJ does not upload certain DNA samples into these databanks within six months, they are required to contract with public or private labs to ensure that DNA samples are processed in a timely manner.

**DNA Program Financing.** The initiative created a \$1 criminal penalty for every \$10 in fines, penalties, and forfeitures collected by the courts for criminal offenses. This funding was split between the state and the counties to support Proposition 69 activities.

The revenues generated from the criminal penalty charge established by the initiative have been consistently short of what is needed to fully fund the program. The initiative does not require the state to fully fund the requirements of Proposition 69 with General Fund monies if sufficient revenues are not generated to support this program.

In order to address the structural shortfall in the DNA Identification Fund, the Legislature enacted an additional \$1 criminal penalty for every \$10 in fines, penalties, and forfeitures collected by the courts for criminal offenses effective July 2006. Nevertheless, despite this additional revenue source the DNA program was still projected to be short the fee revenues it needed to support the program. Therefore, \$11 million General Fund was provided to DOJ in the 2007 Budget Act to backfill this shortfall.

**Governor's Budget.** The Governor's budget includes \$36.6 million in revenues to the DNA Identification Fund, which is approximately \$8 million more than the revenues estimated in the current year.

**Updated Revenue.** The DOJ indicates that revenues to the DNA Identification Fund have increased in the current year and the fund now has sufficient revenues to support the entire DNA Program. The LAO concurs with the department on its revenue estimate. Therefore, the DOJ and LAO concur that the General Fund added to backfill for the revenue shortfall in the current year can be reduced.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Eliminate \$11.2 million General Fund from the DNA Program.
- Increase expenditures from the DNA Identification Fund by \$11.2 million.

## 11. Vehicle and Equipment Deferrals

**Governor's Budget.** The 2006 Budget Act included a significant baseline increase (\$8.8 million) to the department's budget for vehicles, radios, and forensic equipment. This action allowed the department to increase its replacement cycle for these vehicles and equipment. The Governor's budget contains this baseline augmentation.

**Staff Comments.** Staff finds that routine equipment replacement is needed by the department, but given the state's fiscal condition the replacement schedule could be extended.

**Staff Recommendation.** Staff recommends that the Subcommittee reduce the department's budget for vehicles, radios, and forensic equipment by \$3.9 million.

## 0855 California Gambling Control Commission

### 1. Tribal Gaming Revenues—Informational Item

**Previous Subcommittee Action.** At the April 9 meeting of the Subcommittee the DOF agreed to report tribal gaming revenues separately in the budget to make them more transparent. The Subcommittee also took action to use funding in the Special Distribution Fund (SDF) to ensure enough funds were available in the Revenue Sharing Trust Fund (RSTF) to make the required payments to each non-compact tribe. This action increased General Fund revenues by \$40 million from tribal gaming.

**May Revision.** The May Revision includes a proposal to take the same action this Subcommittee took on April 9. However, the May Revision also contains an updated tribal gaming revenue estimate that is slightly lower than what was assumed in the January budget proposal. The Governor reports that the new revenue estimate is \$6.7 million lower in the current year and \$23.7 million lower in the budget year due to the delayed adoption of the Sycuan tribal compact by the Sycuan General Council. Given this development, the action the Subcommittee took on April 9 results in a net increase in General Fund revenues of \$16.3 million instead of \$40 million.

The updated revenues from the tribal-state compacts are as follows:

- General Fund - \$446.7 million.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) – Approximately \$40 million to pay \$1.1 million per year to each non-compact tribe.
- Indian Gaming Special Distribution Fund (SDF) - \$49 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - \$100 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

**New Compact Signed.** On April 28 the Governor signed two related tribal gaming compacts. These compacts have not been ratified by the Legislature. The following is a summary of the compacts:

- **North Fork Mono Rancheria.** The compact would authorize the North Fork Mono Rancheria to operate a gaming facility just north of the city of Madera and authorize the tribe to operate no more than 2,500 slot machines at the facility. This facility is estimated to generate over \$25 million annually for the General Fund. The facility will share revenues with the state based on a sliding scale percentage of net win from the operation of the slot machines and the banked card games from 13.5 percent to 22 percent. The facility will also share revenues with the Wiyot Tribe.
- **Wiyot Tribe.** The compact with the Wiyot Tribe would require the tribe to forego its right to game on its tribal lands along Humboldt Bay in exchange for revenue payments from a gaming facility to be operated by the North Fork Mono Rancheria in Madera County. The Wiyot Tribe will receive a sliding scale percentage of the net win from the

North Fork Mono Rancheria gaming operation. The Wiyot Tribe is expected to get about \$3 to \$5 million annually above the distributions they currently receive from the Revenue Sharing Trust Fund.

## 2. Gambling Control Fund

**Background.** The Gambling Control Fund is used to support gambling regulation activities at the Gambling Control Commission and the Department of Justice. Revenues to this fund are from fees and penalties collected from persons operating cardrooms. The Governor's budget estimates that this fund will have a reserve of \$14 million in the budget year.

**May Revision.** The May Revision proposes to loan \$10 million from the Gambling Control Fund to the General Fund on a one-time basis. This would leave the fund with approximately \$4 million in reserve in the budget year.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

## 3. Inspection Program

**Previous Subcommittee Action.** At the April 9 meeting of the Subcommittee, a proposal to continue \$1 million from the Special Distribution Fund for the Gambling Control Commission's electronic gaming device inspection program was rejected. At that time of the hearing, the Legislature had not received a legislatively mandated report on the performance of the GCC's slot machine inspection and testing program.

**Electronic Gaming Device Inspection Report.** Since the Subcommittee meeting on April 9, staff has received the report on the commission's electronic gaming device inspection program. This report found that of the 1,275 components/software that were tested over 28 percent were obsolete. This means that the manufacturer had issued a newer version of the software and is no longer supporting the old version. The commission points out that obsolete software may not always pose a risk and therefore many not need to be removed from the casino floor. However, during the analysis of the obsolete software the commission staff found that some of the software did pose a risk and the staff made recommendations to have it upgraded or removed.

The commission indicates that it cannot currently document an increase in revenues to the state due to the electronic gaming testing. However, the commission indicates that when electronic gaming devices function improperly because of the use of revoked or obsolete software the devices may not be properly accounting for gaming revenue, which would impact the state's revenue.

**Staff Comments.** Staff finds that electronic gaming devices are the most important source of revenue in the tribal gaming operations. Given the initial findings of the commission, staff finds that it would ultimately be beneficial to continue the commission's inspection presence.

The LAO finds that the report on the electronic gaming device inspection program has provided the Legislature with useful information about the performance of this inspection program. The LAO recommends that the reporting requirement be continued so that the Legislature can continue to monitor the performance of this program. Also, the LAO finds that the information contained in the audit report from the commission is useful to the Legislature and that this report should also be continued.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Restore \$1 million from the Special Distribution Fund to continue the electronic gaming device inspection program.
- Approve the following supplemental report language recommended by the LAO for the audit program and the electronic gaming inspection program:

***1. Audit Staffing, Workload, Productivity, and Results.*** No later than March 1, 2009, the California Gambling Control Commission (CGCC) shall submit to the Legislature updated workload information regarding its audit plan. The information shall include an update of the audit plan including the status of backlogged audits, the updated number of hours to complete an audit, the outcomes of audits completed, the number of audit positions that have been filled and the number of vacancies, and an updated calculation of audit staff needs based on the most recent workload information. Should the administration submit a budget change proposal (BCP) for audit-related programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.

***2. Field Inspection and Technical Services (Gaming Device Testing) Programs.*** No later than March 1, 2009, CGCC shall submit to the Legislature a report describing the activities of its field inspection and technical services programs including: (a) an updated list of ratified and proposed tribal-state compacts that authorize state testing of gaming devices; (b) relevant measures of productivity by both of the programs (including, but not limited to, the number of devices tested and at how many facilities); (c) descriptions of significant problems discovered with gaming devices as a result of these programs' activities and measures taken to resolve the problems; (d) a measure of state revenues, if any, collected as a result of the programs' activities (including identification of any such revenues that overlap with those listed in the commission's report to the Legislature on audit program results), (e) an evaluation of the programs' workload and whether currently authorized staffing levels are sufficient for the commission to fulfill its responsibilities, and (f) any recommendations to the Legislature on budgetary, statutory, or other changes necessary to allow the commission to operate these programs in a more effective and productive manner. Should the administration submit a BCP related to these programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.



## 0250 Judicial Branch

### 1. Unallocated Reduction

**Previous Subcommittee Actions.** The Governor is proposing a 10 percent unallocated General Fund reduction to the budget for the Judicial Branch. This would result in a reduction of \$246 million General Fund. At the April 9 meeting of this Subcommittee actions were taken to make specific reductions to the budget for the Judicial Branch to help meet this reduction target. These actions are detailed below.

<b>Judicial Branch (in millions)</b>	
Delayed appointment of 50 judges for one year (current year action).	\$54.2
Delayed appointment of 50 judges until 2009-10	16.8
Delayed implementation of the Omnibus Conservatorship Act	17.4
Increased Civil Filing Fees and back out General Fund	21.0
Rejected workload budget change proposals to AOC program support	1.5
Rejected workload budget change proposals to AOC fiscal support	1.3
Rejected workload budget change proposals to Supreme Court	1.0
Rejected workload budget change proposals to Courts of Appeal	0.7
<b>Subtotal</b>	<b>\$113.9</b>

In addition, at the April 9 meeting of the Subcommittee, actions were taken to reject the unallocated reductions to the Supreme Court, Courts of Appeal, and Habeas Corpus Resource Center given the relative importance of these appellate bodies in the fair administration of justice. Therefore, in order to meet the target set by the Governor an additional \$132 million will have to be reduced from the budget for the Administrative Office of the Courts (AOC) and the trial courts.

Also at April 9 Subcommittee meeting the Judicial Branch submitted an alternate proposal that would provide the trial courts with a full workload budget, including the full SAL adjustment by relying on the reserve funds that are currently being held at the trial courts. The LAO estimates that the trial courts have approximately \$590 million in reserve funds of which \$235 million are classified as restricted by contract or statute.

## Trial Courts

### 1. Trial Court Security

**Previous Subcommittee Action.** At the April 9 meeting of the Subcommittee placeholder trailer bill language was approved to limit the amount counties can charge the courts for trial court security to the mid-step salary of sheriff deputy and to determine an appropriate mid-step salary level for large, medium and small counties.

**Staff Comments.** Staff finds that the action taken by the Subcommittee on April 9 was a good first step towards containing and standardizing court security costs. However, staff finds that more needs to be done to establish a real security standard that includes a staffing standard that will ensure equal security in all court facilities.

Staff finds that in order to improve court security, enable the state to contain security costs going forward, and adjust costs appropriately when new, more secure, court facilities are constructed, more needs to be done to reconfigure court security funding based on a level of service. Staff finds that this change would require the development of detailed staffing standards for individual court facilities. Staff also finds that the statute and rules of court would need to be amended to ensure uniformity court-to-court on court-sheriff responsibilities and what is included in the cost of deploying a sheriff deputy and other non-sworn court security personnel in each county.

The courts have reported that the current trial court budget has a shortfall of \$20 million to fund court security obligations using the existing methodology that is not based on standardized level of service. The AOC indicates that implementing a standard level of service may actually increase expenditures on court security going forward because many courts are below current standards. However, it may actually reduce court security expenditures in some courts that are operating above standards.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve \$20 million to fund the current shortfall in court security.
- Approve trailer bill language to do the following:
  - Establish statewide security standards including staffing standards.
  - Base court security costs on average staffing costs instead of mid-step salary.
  - Create uniformity court-to court for the cost of deploying a sheriff deputy by clarifying court-sheriff responsibilities and standardizing costs, including making it clear that retiree health is not a state funding responsibility.
  - Establish a separate item for tracking and accounting for court security funding.

### 2. Court Reporting

**Previous Subcommittee Direction.** At the April 9 meeting, the Subcommittee discussed the LAO's recommendation to transition from court reporters to electronic methods of recording court proceedings. The Subcommittee directed staff, LAO, DOF, and the courts to explore options for savings related to converting civil court operations to electronic reporting.

**Staff Comments.** Staff finds that electronic reporting can significantly reduce the costs of providing transcripts to participants in court proceedings. For example, an electronic recording can cost a participant as little as \$10 to \$20, which is considerably less than a written transcript created by a court reporter. Written transcripts created by court reporters are often \$300 or more depending on the length of the hearing. Staff finds that some indigent litigants do have access to free or reduced price transcripts, but only if they are represented by Legal Aid. If they are unrepresented or have ever been unrepresented they are not eligible for these free or reduced price transcripts.

Nevertheless, staff recognizes the importance of court transcription services, especially for cases that are going to be appealed. Furthermore, staff finds that converting all civil court operations to electronic reporting would not be appropriate given the need for a written record in many proceedings.

The AOC indicates that it currently has authority to use electronic reporting in limited civil matters which are less than \$25,000. However, staff finds that the use of electronic reporting would greatly enhance the access to justice for court participants in some other limited court proceedings other than limited civil. Specifically, staff finds that electronic reporting could be used effectively in family court, probate court, mental health court, and in laws and motions proceedings. In all of these courts staff finds that the litigants would greatly benefit from electronic recording. In those cases where they need to appeal, they would still need an official transcript. However, staff notes that for the vast majority of litigants in these courts there is not a need to appeal. For example, in family law the parties may simply need to prepare a judgment reflecting the orders of the court (who has custody, what is the visitation schedule, etc.). Without the ability to translate what the court said at the hearing into a written judgment the litigants do not have enforceable orders. Electronic reporting would enable litigants to more quickly and economically a record of the hearing and allow them to prepare a timely judgment.

Staff finds that transitioning the limited court proceedings listed above to electronic reporting is not likely to produce significant budgetary savings. However, it could significantly improve the utilization of court reporters in the courts and lead to some efficiencies. Furthermore, this action would greatly improve the access to justice for many litigants that would be able to gain more economical and timely transcripts of their court proceedings.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following action:

- Approve trailer bill language to authorize the use of electronic reporting in family court, probate court, mental health court, and in laws and motions proceedings. Also authorize the courts to use electronic reporting for limited administrative purposes such as monitoring performance of subordinate judicial officers.

## Judicial Council/Administrative Office of the Courts

### 1. Budget Balancing Reductions

**Previous Subcommittee Meeting.** At the April 9 meeting of the Subcommittee no action was taken on the one-time unallocated reduction (\$4.7 million) proposed by the AOC for the Judicial Council/AOC budget. However, the Subcommittee did take action to eliminate the two budget augmentations proposed in the Governor's budget, which resulted in \$2.8 million in savings towards the unallocated reduction proposed by the Governor.

**Staff Comments.** Staff finds that the proposed reduction to the Judicial Council/AOC will require actions that will reduce services and the support provided to the Judicial Branch. Furthermore, the AOC has indicated that the current budget does not include funding to support over \$1 million in unavoidable costs (rent and health benefit increases) so it will likely have to further reduce service levels. Nevertheless, given the overall fiscal condition of the state this reduction may be prudent given the alternatives that may have a larger impact on the access to justice.

**Staff Recommendation.** Staff recommends that the Subcommittee approve a \$4.7 million reduction to the Judicial Council/AOC budget.

## Administrative Office of the Courts: Office of Court Construction and Management

### 1. Budget Balancing Reductions

**AOC Budget Balancing Alternative.** The AOC has put forward an alternative proposal that would reduce the Office of Court Construction and Management on a one-time basis by \$1.2 million General Fund in the budget year.

**Staff Comments.** Staff finds that the proposed reduction to the Office of Court Construction and Management and require the department to eliminate some vacant positions. The AOC recognizes that there have been some delays in filling positions due to delays in the facility transfers. Nevertheless, given the recent passage of legislation (Chapter 9, Statutes of 2008 [AB 1491, Jones]) to extend the deadline for transferring court facilities the AOC will need to fill these positions. In order to address this expected workload, the AOC is requesting budget bill language to enable an augmentation of staffing resources in the budget year to backfill this reduction, funded from the State Court Facilities Construction Fund.

Staff finds that the State Court Facilities Construction Fund has sufficient funds to support the capital outlay projects proposed for funding in the 2007 Budget Act and to absorb additional staff costs of \$1.2 million.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve \$1.2 million reduction to the Office of Court Construction and Management.
- Approve budget bill language to allow the AOC to request additional resources from the State Court Facilities Construction Fund in the 2008-09 fiscal year pending notification of the Legislature and limit the available augmentation to \$1.2 million.

## 2. Court Facility Operations and Maintenance

**Previous Subcommittee Action.** At the April 9 meeting of the Subcommittee, actions were taken to approve the Governor's budget and Finance letter proposals to (1) increase expenditures from the Court Facilities Trust Fund to account for additional court facility payments (CFPs); (2) increase General Fund support for maintaining new court facilities that have transferred to the state that have expanded square footage and a CFP that is insufficient to cover the expanded square footage; and (3) increased expenditures from the Court Facilities Construction Fund and reimbursements to support modifications to trial court facilities that have transferred to the state.

**May Revision.** A Finance Letter (dated May 13, 2008) proposes to transfer \$1.7 million General Fund to the Court Facilities Trust Fund to cover additional operations and maintenance costs of new or newly renovated court facilities that will transfer to the state in the next year and have CFPs that are not adequate to maintain the additional square footage added since the CFP was determined. The budget year costs represent partial-year funding, which is anticipated to grow to \$2.5 million in 2009-10. The funding will supplement the CFP and support ongoing operations and maintenance at the following new or newly remodeled facilities:

- |   |  |
|---|--|
| • Amador: Renovated Begovich Building     | • San Bernardino: New Juvenile Dependency Courthouse |
| • Contra Costa: New Family Law Center     | • San Luis Obispo: New Paso Robles Court             |
| • Placer: New South Placer Justice Center | • Santa Cruz: New Watsonville Courthouse             |
| • Sacramento: New Juvenile Courthouse     | • Ventura: New Juvenile Courthouse                   |

In some cases the additional operations and maintenance costs are needed because as part of the court facility transfer agreement, the county agreed to move out of space that they previously occupied in the court facility. Since the CFP was based on the square footage occupied by the court at a point of time, it did not cover the space previously occupied by the county in the facility. The funding will also supplement the additional square footage no longer occupied by the county at the following facilities:

- Butte: Butte County Courthouse
- Shasta: Main Courthouse
- Sierra: Downieville Courthouse

**Update on Statute Impacting Transfers and CFPs.** Since the April 9 meeting of the Subcommittee, legislation (Chapter 9, Statutes of 2008 [AB 1491, Jones]) was enacted to extend the date for counties to transfer court facilities to the state. The original statutory deadline had expired June 30, 2007. The new statute requires that the counties transfer the facilities before

January 1, 2009. If they are not transferred to the state by this date they may be subject to a multiplier that will increase their CFP payment to the state. The CFP would be increased by the National Implicit Price Deflator if it did not transfer by January 1, 2009 and it would be increased by the State Appropriations Limit if the court facilities did not transfer by December 31, 2009. Staff finds that this new law may provide the state with a marginal increase in additional CFP payments from the counties to cover the costs of operating and maintaining these facilities transferred to the state. However, the penalty will not come close to covering the actual operations and maintenance costs of these facilities.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision Finance Letter proposal.

## 5225 California Department of Corrections and Rehabilitation

### Board of Parole Hearings

#### 1. Lifer Hearing Process

**Previous Subcommittee Direction.** At the May 5 meeting of the Subcommittee the Governor's budget proposal to provide the Board of Parole Hearings (BPH) with additional resources to improve the lifer hearing process and comply with the settlement agreement in the *Lugo* lawsuit. The Subcommittee approved funding for the Forensic Assessment Division and the Case Records Unit, but left open the funding proposed for the Hearings Division to support establishing three additional commissioners. The Subcommittee requested that staff review the viability of eliminating two juvenile commissioners and redirecting these positions to the Board.

The Subcommittee also requested that the Board report back on the adequacy of the current compensation rates for the attorneys representing lifers in the life hearing process.

**Staff Comments.** The *LH* lawsuit is a class action lawsuit alleging that California's parole revocation process for juvenile offenders violates the due process clause of the U.S. Constitution. Given the new demands placed on the Juvenile Parole Board, staff does not propose transferring two juvenile commissioners in the budget year. Nevertheless, given the continued decline of the juvenile population in state facilities the demand for these commissioners should be evaluated in the near future.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve funding for the hearing division.
- Approved trailer bill language to establish three new commissioners at BPH.

### Division of Juvenile Justice

#### 1. 2007 Juvenile Justice Reform

**Previous Subcommittee Action.** At the April 17 meeting, the Subcommittee heard an update on the implementation of recent juvenile justice reform legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]). This legislation limits the types of juvenile offenders that could be committed to the state Division of Juvenile Facilities (DJF). Specifically, all youthful offenders adjudicated for non-violent, non-serious offenses (commonly referred to as non-707(b) offenders) would remain in local care and custody, rather than be sent to the state. (The legislation also excludes juvenile sex offenders.) The reform proposal provided counties with a block grant that amounted to approximately \$130,000 per youthful offender per year. At this meeting the Subcommittee

approved trailer bill language to require an annual report from the counties on its expenditure of these block grant funds that tracked six outcome measures currently tracked in the report on the expenditures of the Juvenile Justice Crime Prevention Act (JJCPA) funding.

**Staff Comments.** Staff finds that the JJCPA metrics may not be the most appropriate metrics to use in evaluating the expenditure of the block grant funds. Nevertheless, staff finds that ongoing reporting of performance metrics submitted by the counties is important to understanding the progress being made by the counties in treating and rehabilitating youthful offenders. This information will help the state understand the value of its investment in local programs that serve youthful offenders.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following action:

- Approve trailer bill language to require annual reporting tied to the youthful offender block grant.

## 2. Commission on Juvenile Justice

**Previous Subcommittee Meeting.** At the April 17 meeting of the Subcommittee testimony was heard from the tri-chairs of a newly reconstituted State Commission on Juvenile Justice. The Commission reported on its activities to date, including its work in developing an operational master plan for juvenile justice. The Commission has an interim report due to the Legislature by May 1, 2008. The Subcommittee has not received this report to date. The final operational master plan is due on January 1, 2009. The commission is set to sunset at this date.

**Staff Comments.** Staff finds that the Commission has made some progress in forming the commission and developing a work plan for developing an operational master plan. Staff finds that it may be beneficial to extend the commission for at least an additional year. Staff finds that the current timeframe for developing an operational master plan is relatively short especially given the collaboration and consensus that is needed to develop a meaningful work product. Furthermore, staff finds that there is value in continuing the commission for at least one-year after the operational master plan is released so that the commission can help promote and implement the policies in the operational master plan.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve trailer bill language to extend the sunset date of the commission by one year.
- Approve budget bill language to re-appropriate the one-time funding (\$600,000) provided for the support of the commission in the current year. This will enable the department to continue to expend these funds to support the commission in the budget year.

## 3. DJJ Population Estimate

**Previous Subcommittee Meeting.** At the April 28 meeting of the Subcommittee the January estimate of the DJJ population was discussed and help open. The Subcommittee also requested



staff, LAO and DOF to determine what action is needed to continue to make progress to improve the transparency of the DJJ population estimate.

**Population Estimate.** The Governor's January budget proposal estimated that as of June 30, 2007, 2,516 wards reside in DJJ facilities. The January budget proposal forecasts that the ward population will decrease to 1,703 wards by June 30, 2009, a projected two-year decrease of 813 wards, or about 32 percent, compared to the beginning of the current fiscal year.

As of June 30, 2007, CDCR supervised 2,765 youthful offenders on parole. The department forecasts the parole population will decrease to 2,175 by June 30, 2009, a projected two-year decrease of 590 parolees, or about 21 percent.

The May Revision does not propose a change in funding for the juvenile population despite spring projection provided by the department that indicates some increase in population was assumed above the Governor's January budget in both the current and budget years.

**Population Estimate – Fiscal Impact.** The Governor's budget proposal contains an additional \$3.1 million in the current year to fund the juvenile population due to unexpected delays in the closure of DeWitt Nelson Youth Correctional Facility. However, the Governor's budget expects a reduction of \$57 million General Fund in the budget year due to the projected population decline at DJJ.

The May Revision estimate reduces the amount proposed in the current year by \$8.6 million in the current year and \$4.3 million in the budget year to reflect a delay in contracting for secure placements for the female offenders currently residing in state DJJ facilities. The contracting out for services for the female offenders is part of the Safety and Remedial Welfare Plan developed to comply with the *Farrell* lawsuit.

In summary, the total decrease in funding related to the population estimate is \$11.7 million in the current year and \$61.3 million in the budget year.

The Governor's budget and May Revision also proposes budget proposals to technically realign DJJ resources among its programs to more accurately reflect the actual expenditures in each program area. The DJJ has the following four programs: (1) security and support, (2) education/non education, (3) Proposition 98 education, and (4) medical.

**LAO Recommendation.** The LAO finds that the juvenile population may be slightly lower than projected in the Governor's budget and revised by the May Revision. Specifically, the LAO thinks that funding for DJJ could be reduced by \$7.6 million in the current year and an additional \$15.6 million in the budget year. The department indicates that this level of savings may be unattainable in the budget year due to the length of the state layoff process. However, the LAO finds that this level of savings could be attainable given the large number of vacancies within DJJ.

**Staff Comments.** The department has agreed to continue to work on improving the transparency and organization of the DJJ population estimate.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve the LAO's revised population estimate.
- Approve the Governor's budget and May Revision proposals to realign DJJ resources among its programs.

#### 4. *LH* Lawsuit Compliance—Juvenile Parolee Due Process

**Previous Subcommittee Action.** At the April 28 meeting of the Subcommittee action was taken to approve \$3.2 million to comply with the *LH* lawsuit. The *LH* lawsuit is a class action lawsuit alleging that California's parole revocation process violates the due process clause of the U.S. Constitution. At this meeting there was some concern that the budget proposal included attorney representation for parole consideration hearings. The LAO had pointed out that attorney representation for parole consideration hearings had not been ordered by the court. The Subcommittee requested that staff, LAO, and DOF resolve this issue.

**Staff Comments.** The DOF has indicated that funding for attorney representation at parole consideration hearings was included in the budget request for compliance with the *LH* court orders. The DOF has proposed to delete this funding from the proposal in the budget year. This results in \$221,000 in savings in the budget year.

**Staff Recommendation.** Staff recommends that the Subcommittee reduce the *LH* budget proposal approved at the April 28 Subcommittee meeting by \$221,000.

### Other Issues

#### 1. Human Resources Support

**Previous Subcommittee Direction.** At the May 5 meeting of the Subcommittee no action was taken on the Governor's budget proposal to augment the department's human resources activities. The Governor's budget proposed \$4.7 million to support 10 new positions and the conversion of 34 limited-term positions to permanent. The department is also requesting funding to continue 15 limited-term positions to support dental and mental health hiring in the budget year. These positions would support the following:

- **Office of Executive Recruitment and Program Performance Management.** 4 new positions to support the recruitment and hiring of executive level management.
- **Office of Personnel Services, Customer Service Staff.** 6 new positions to provide managers and supervisors with technical expertise concerning the hiring process, classification and pay, merit issues, training, progressive discipline and general personnel management issues. This office is also responsible for developing consistent policies and procedures and work on numerous changes to classification and pay that are needed to better recruit and retain qualified individuals.

- **Office of Workforce Planning.** Convert 3 limited-term positions to permanent to continue support for recruitment efforts to attract trained staff for 500 plus classifications (excluding entry level peace officers).
- **Office of Selection Services.** Convert 4 limited-term positions to permanent to continue support for the administration of examinations required to hire qualified staff in a timely manner.
- **Institution Personnel Office Statewide.** Convert 27 limited-term positions to permanent to continue to support hiring and selection at the institutions.
- **Dental and Mental Health Hiring Plan.** Continue 15 limited-term positions to support a variety of hiring activities at the institutions and headquarters related to hiring large numbers of dental and mental health staff required by federal court actions. The department proposed to make these positions permanent starting in 2009-10.

At this meeting of the Subcommittee, the LAO requested more time to review information related to this request.

**LAO Recommendation.** Given the state's fiscal condition, the LAO recommends modifying the Governor's request to augment the department's human resources division. Specifically, the LAO recommends rejecting the 10 positions requested for the Office of Executive Recruitment and the Office of Personnel Services. The LAO notes that these positions may be potentially beneficial, but given the state's fiscal condition they would recommend denying these positions at this time. They also reject the Governor's request to make the 15 limited-term positions for the dental and mental health hiring plan permanent. They propose that these positions continue through 2008-09 as limited-term positions as originally proposed. The LAO finds that if some of these activities require ongoing resources, the department should come forward with a request as part of the 2009-10 budget process. The LAO estimates that these actions will save the state \$2.3 million in the budget year.

**Staff Comments.** Staff concurs with the majority of the LAO's recommendations. However, staff finds that this Subcommittee has voiced concerns on numerous occasions about structural problems within the department relating to classification and pay. Staff finds that a portion of the positions requested in the Office of Personnel Services could enable the department to work on some of these ongoing problems and develop solutions that will improve the department's ability to recruit and retain qualified staff. For example, the department has had ongoing problems with retention and recruitment of case record classifications and deputy commissioner classifications that should be evaluated.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Reject new positions for the Office of Executive Recruitment and Program Performance Management given the state's fiscal condition.
- Approve three 2-year limited term positions to work on various classification and pay projects to improve recruitment and retention. Reject the other 3 positions requested.
- Approve conversion of 34 limited-term positions to permanent positions.
- Make no changes to the 15 limited-term positions to support the dental and mental health hiring plan. If the department wants to make these positions permanent they should submit a new proposal in 2009-10.

## 2. Consolidated Information Technology Infrastructure Project

**Background.** Currently, most of the department's information technology systems are past their useful life (many were designed and implemented in the 1970s). Furthermore, the department cannot improve these systems without first addressing serious deficiencies in the telecommunications and electrical infrastructures of the institutions. The current electrical infrastructure at some prisons will not support the use of additional computer technology. Furthermore, the department currently does not have the technology to utilize information technology devices (computers) in various places within the institutions outside of the Warden's office. The institutions generally have very little computing capabilities, records staff often do their work without the assistance of computers, and some institutions were not connected to the Internet until just a few years ago.

The 2007 Budget Act contained \$114 million to start funding the Consolidated Information Technology Infrastructure Project (CITIP) to upgrade the electrical systems, telecommunications systems, and information technology network at the prisons. This project is necessary to implement a new computer-based system that will track offender information. Real-time offender information will improve the department's ability to track performance outcomes, manage the prison population, and implement rehabilitation programming.

A portion of this project was eligible for GS SMART financing, which will enable the state to finance this investment over several years at a reduced up-front cost to the General Fund. The General Fund impact of this project in the current year was estimated to be \$28 million in the 2007 Budget Act. This project was estimated to cost \$289 million to implement over nine years, including the cost of financing a portion of the project.

**May Revision.** A Finance Letter (dated May 13, 2008) proposes an adjustment to the current year and budget year funding proposed in the Governor's budget to support the CITIP program. These adjustments are based on actual project costs and the removal of health care from this program. The Receiver has indicated that he is pursuing his own information technology infrastructure solutions.

The Finance Letter would reduce the overall CITIP project costs by \$39.2 million in the current year and \$37.4 million in the budget year. This reduction also impacts the amount that can be financed, thereby lowering the General Fund impact in the current year and budget year by \$1.6 million and \$19.7 million, respectively. The total cost of this project is now estimated to be \$212 million, which is \$77 million less than originally estimated, including the cost of financing a portion of the project.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the May Revision Finance Letter proposal to adjust this project.

### 3. Electric Fence Activation

**Background.** The department has been constructing new electric fences at the California Men's Colony and the Sierra Conservation Center. These new fences were activated in August 2007 and May 2008, respectively. Historically, the activation of electric fences has allowed the department to deactivate some perimeter gun towers and replace these positions with staff that patrol the fence. Staffing the perimeter gun towers is more staff intensive than providing staff to patrol the fence.

**May Revision.** A Finance Letter (dated May 13, 2008) proposes \$2.8 million in General Fund savings to deactivate guard towers that no longer need to be staffed once institutional electric fences have been activated. This proposal would reduce 42 custody positions currently staffing some of the perimeter guard towers and would add 5 positions at each institution to create new dedicated fence patrol posts, for a net reduction of 37 positions.

**LAO Recommendation.** The LAO recommends approving the savings proposed in the May Revision related to activating the electric fences at the California Men's Colony and the Sierra Conservation Center. The LAO also recommends that \$1.5 million in additional General Fund savings can be scored in the current year since both of these fences were activated in the current year.

**Staff Recommendation.** Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision Finance Letter.
- Approve the LAO's recommendation for additional savings in the current year.

### 4. El Paso De Robles Warm Shutdown

**Background.** The department announced that it would shut down the El Paso de Robles Youth Correctional Facility in the current fiscal year given the continued decline in the juvenile population in state Division of Juvenile Justice (DJJ) facilities. Subsequently, CDCR announced that it would re-purpose this campus as a facility for adults. The department has indicated that it is still evaluating what needs could be served by this facility, including ongoing discussions with the local community.

**May Revision.** A Finance Letter (dated May 13, 2008) requests \$775,000 General Fund to support 5 positions and operating expenses to facilitate a "warm" shutdown of the El Paso de Robles Youth Correctional Facility. This funding will enable the department to maintain a small crew that will maintain the water, boiler, and wastewater systems and do minimal upkeep to the grounds to ensure that the facility can be utilized in the near future.

**Staff Comments.** Staff finds that in recent years the department has completely shut down existing facilities and has not provided minimal maintenance staff to keep core systems in operation. This has resulted in facilities that are unusable by the department without major repairs to get the core systems operating again. Given the overcrowded conditions that continue to persist in the adult prison system, staff finds that this facility could be useful in helping to alleviate this problem.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this May Revision Finance Letter proposal.

## 5. Correctional Officer Recruitment and Training

**Background.** The CDCR has made significant progress in recruiting custody classifications. Historically, vacancies for custody classifications are between 7 percent and 15 percent for adult institutions depending on the institution. The department estimates that vacancies will be nearly eliminated at most institutions by the end of the current fiscal year.

The LAO has also confirmed that the department has made significant progress in filling correctional officer vacancies. Specifically, the LAO reports that the department graduated nearly 1,600 correctional officers from the academy between July 2007 and December 2007. Over this same time period attrition was estimated to be about 600 resulting in a net gain of 1,000 new officers. This data is supported by position and vacancy reports from the State Controller's Office.

This progress is likely the result of several years of increased investments to recruit and train additional correctional officers. For example, the 2006 Budget Act included over \$54 million expanding the Basic Correctional Officer Academy to train and hire additional correctional officers to fill the department's vacancies.

However, even though vacancies have been reduced the department and the LAO concur that overtime expenditures continue to rise. The department and the LAO concur that this is likely being driven by many factors, including increased medical guarding and transportation related to the Receiver. The department admits that it does not currently have a good explanation for why the overtime expenditures continue to rise even though vacancies are being filled. The department reports that the current tracking system for overtime needs to be simplified so that the data reported can be better understood.

**Governor's Budget and May Revision.** The Governor's budget and a Finance Letter (dated May 13, 2008) propose to reduce funding for correctional officer and parole officer recruitment and training by \$8.7 million in the current year and \$40 million in the budget year. This reduction is mainly due to the deactivation of the Correctional Training Center Annex that was being operated at the Northern California Women's Facility, which is now slated to be converted to the state's first re-entry facility. This proposal would shift some of the savings from this closure to expand the parole agent academy in the budget year. The department estimates that under this budget proposal it will have the capacity to graduate 1,940 correctional officers, 40 juvenile correctional officers, and 480 parole agents in the budget year. The detailed components of this plan are as follows:

- **Correctional Training Center Annex Deactivation.** \$428,000 in savings in the current year and \$28.6 million in savings in the budget year due to the deactivation of the Correctional Training Center Annex in the budget year. The Annex accommodated the training of 1,200 cadets, but is being deactivated due to the impending transition of this

facility to the Northern California Reentry Facility. This deactivation results in a reduction of 18 positions in the current year and 88 positions in the budget year.

- **Cadet Standard.** \$8.2 million in savings in the current year since the department estimates that it will train slightly fewer correctional officers than anticipated in the current year. The department estimates that it will train about 490 fewer correctional officers than previously estimated in the current year.
- **Office of Peace Officer Selection.** \$1.7 million in additional funding for the Office of Peace Officer Selection to increase support a contract with the State Personnel Board for psychological screenings. Historically, the lag in getting a completed psychological screening has increased the time it takes to hire a correctional officer. This augmentation will help reduce the backlog at the State Personnel Board.
- **Parole Agent Academy.** \$3.1 million in additional funding to support 17 positions to double the size of the parole agent academy, thereby increasing the number of parole agents that can be trained to 480 in the budget year.
- **Basic Correctional Officer Regional Satellite Academy.** The Governor's budget proposal had included \$4.5 million for a one-time regional satellite academy to fill additional correctional officers at hard to fill institutions. However, the May Revision deleted funding for this satellite academy given the success in filling vacancies in the current year.
- **Basic Correctional Officer Academy – Galt.** \$11.7 million reduction to the primary training academy for correctional officers. The academy in Galt is currently staffed to provide training to 2,500 cadets. This proposal would reduce the capacity of the academy to just fewer than 2,000, which is the number of new officers the department projects it will need in the budget year. This proposal would also result in a reduction of 17 positions in the budget year.
- **Basic Correctional Juvenile Academy.** \$4.2 million reduction to the academy for training correctional juvenile officers. The current academy in Stockton can support training 240 cadets. This proposal would reduce the capacity of the juvenile academy to 40 juvenile cadets, which is the number of new juvenile officers the department projects it will need in the budget year.
- **Range Safety Officers.** The department requests establishing 11 Range Safety Officers at the Galt Basic Correctional Officer Academy. Currently the department relies on range officers traveling to the academy to provide the range safety, which is funded out of the standard funding complement for a cadet. This proposal would enable the department to establish Range Safety Officer positions at the academy.
- **Office of Training and Professional Development.** \$445,000 in additional funding to support 6 positions to provide additional business services support that was created by the 2005 reorganization and was never funded.

**Staff Comments.** Staff finds that the Governor's proposal would allow the department to maintain its academy at a level that should enable the department to keep up with filling positions lost due to attrition and will be able to add 700 additional positions as needed. The department indicates that this is estimated to meet the Receiver's needs in the short term. However, it is uncertain what additional custody staff resources the Receiver may need as he completes his custody assessments at each institution.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the Governor's budget proposal and the May Revision Finance Letter proposal.